

REFERENCE TITLE: border regional port authority

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## HB 2363

Introduced by  
Representatives Jones, Aguirre A, Burns J, Mason, Prezelski: Boone,  
Downing, Kirkpatrick, Konopnicki, McComish, McLain, Reagan, Weiers JP,  
Senators Arzberger, Cannell

AN ACT

AMENDING SECTIONS 41-1504, 41-1553, 41-1553.02, 41-1553.03, 41-1553.04 AND  
41-1553.05, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA INTERNATIONAL  
DEVELOPMENT AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1504, Arizona Revised Statutes, is amended to  
3 read:

4 41-1504. Department powers and duties

5 A. The department shall:

6 1. Formulate policies, plans and programs designed to encourage  
7 orderly planning and stimulate economic activity and the development and use  
8 of solar energy in this state and to effectuate this chapter.

9 2. Stimulate and encourage all local, state, regional and federal  
10 governmental agencies and all private persons and enterprises that have  
11 similar and related objectives and purposes, cooperate with the agencies,  
12 persons and enterprises and correlate department plans, programs and  
13 operations with those of the agencies, persons and enterprises.

14 3. Conduct research on its own initiative or at the request of the  
15 governor, the legislature or state or local agencies pertaining to any  
16 department objectives.

17 4. Provide information and advice on request of any local, state or  
18 federal agencies, private persons and business enterprises on matters within  
19 the scope of department activities.

20 5. Consult with and make recommendations to the governor and the  
21 legislature on all matters concerning department objectives.

22 6. Make annual reports to the governor and the legislature on its  
23 activities, its finances and the scope of its operations.

24 7. Undertake a comprehensive research program designed to:

25 (a) Establish the department as the central repository and  
26 clearinghouse for all data relating to this state's economy, energy and other  
27 resources as they relate to economic planning and development.

28 (b) Maintain a current inventory of the resources of this state.

29 (c) Investigate potential opportunities for the development of energy,  
30 industry and other commerce throughout this state.

31 8. Promote and encourage the location of new business in this state as  
32 well as the maintenance and expansion of existing business in this state.  
33 Such programs shall include a special focus on fostering the recruitment and  
34 development of industries in the nonmetropolitan communities in this state.

35 9. Receive, administer and disburse federal energy monies for energy  
36 programs which benefit this state.

37 10. Determine and collect registry fees for the administration of the  
38 allocation of federal tax exempt industrial development bonds and student  
39 loan bonds authorized by the department. Such monies collected by the  
40 department shall be deposited, pursuant to sections 35-146 and 35-147, in a  
41 department bond fund. Monies in the fund shall, subject to annual  
42 appropriation by the legislature, be used by the department to administer the  
43 allocations provided in this paragraph and are exempt from section 35-190.

1        11. Determine and collect security deposits for the allocation, for the  
2 extension of allocations and for the difference between allocations and  
3 principal amounts of federal tax exempt industrial development bonds and  
4 student loan bonds authorized by the department. Security deposits forfeited  
5 to the department shall be deposited in the state general fund.

6        12. Encourage the development, use and conservation of solar energy and  
7 other renewable energy sources.

8        13. Establish and oversee the operations of export and import trade and  
9 tourism offices in the Far East, the Republic of Mexico and Europe for the  
10 purpose of expanding export trade opportunities for businesses and industries  
11 located in Arizona if after research the department determines that such  
12 establishment and oversight are feasible.

13       14. Establish and oversee the operations of a part-time export and  
14 import trade and tourism office in Japan if an office has not been  
15 established in Japan pursuant to paragraph 13 of this subsection and a  
16 part-time export and import trade and tourism office in Canada for the  
17 purpose of expanding export trade opportunities for businesses and industries  
18 located in this state if the department determines that such establishment  
19 and oversight are feasible.

20       15. On or before the conclusion of each calendar quarter, report to the  
21 governor, the president of the senate and the speaker of the house of  
22 representatives on the activities of the department relating to economic  
23 planning and development. The report shall include the status of the  
24 long-range strategic plan.

25       16. Establish a minority and women-owned business development program  
26 to promote the economic development of minority and women-owned business  
27 enterprises. The program shall provide data relating to minority and  
28 women-owned businesses and shall promote utilization and development of the  
29 state's minority and women entrepreneurs.

30       17. Establish a small business advocate office to promote the creation,  
31 growth and vitality of Arizona small businesses and to act as an advocate for  
32 small business interests before the governor, legislature and state agencies  
33 as well as the community at large.

34       18. Cooperate with the Arizona-Mexico commission in the governor's  
35 office and with researchers at universities in this state to collect data and  
36 conduct projects in the United States and Mexico on issues that are within  
37 the scope of the department's duties and that relate to quality of life,  
38 trade and economic development in this state in a manner that will help the  
39 Arizona-Mexico commission to assess and enhance the economic competitiveness  
40 of this state and of the Arizona-Mexico region.

41       19. Through its clearinghouse on grant information, maintain data  
42 regarding grants awarded by state agencies and universities. On or before  
43 December 1 of each year, each state agency and university shall submit a  
44 report to the department that includes information about each grant awarded  
45 by the state agency or university in the preceding fiscal year. The

1 information shall include the amount of each grant, the recipient of each  
2 grant and the purpose of each grant.

3 20. Be the state registration agency for apprenticeship functions  
4 prescribed by the federal government.

5 B. The department, through the director, may:

6 1. Employ administrative, secretarial and clerical assistants and  
7 contract for the services of outside advisers, consultants and aides  
8 reasonably necessary or desirable to enable the department to adequately  
9 perform its duties.

10 2. Contract and incur obligations reasonably necessary or desirable  
11 within the general scope of department activities and operations to enable  
12 the department to adequately perform its duties.

13 3. Utilize any media of communication, publication and exhibition in  
14 the dissemination of information, advertising and publicity in any field of  
15 its purposes, objectives or duties.

16 4. Adopt rules deemed necessary or desirable to govern its procedures  
17 and business.

18 5. Contract with other agencies in furtherance of any department  
19 program.

20 6. Use monies, facilities or services to provide matching  
21 contributions under federal or other programs which further the objectives  
22 and programs of the department.

23 7. Accept gifts, grants, matching monies or direct payments from  
24 public or private agencies or private persons and enterprises for the conduct  
25 of programs which are consistent with the general purposes and objectives of  
26 this chapter.

27 ~~8. Notwithstanding section 41-1553.05, subsection A, provide staff~~  
28 ~~support to the Arizona international development authority.~~

29 C. The department shall not advocate or take a position on any special  
30 direct tax on any resident of this state for a sports facility or venue.

31 Sec. 2. Section 41-1553, Arizona Revised Statutes, is amended to read:  
32 41-1553. Definitions

33 In this article, unless the context otherwise requires:

34 1. "Acquire" means purchase, lease as lessee, obtain an interest as  
35 lender or as mortgagee or beneficiary under a deed of trust, operate, erect,  
36 build, construct, reconstruct, remodel, repair, replace, alter, extend,  
37 better, equip, furnish, develop, improve or embellish any property, including  
38 site acquisition, preparation and development and all incidental activities.

39 2. "Agreement" means any agreement, contract, note, mortgage, deed of  
40 trust, lease, sublease or other such instrument entered into by the  
41 authority.

42 3. ~~"Arizona-Sonora~~ ARIZONA-MEXICO border area" means the geographic  
43 area one hundred kilometers north of the Arizona-Mexico border line and ten  
44 kilometers south of the Arizona-Mexico border line.

45 4. "Authority" means the Arizona international development authority.

1           5. "Board" means the board of directors of the authority.

2           6. "Bonds" means any bonds issued pursuant to this article.

3           7. "BORDER REGIONAL PORT AUTHORITY" MEANS A NONPROFIT ENTITY THAT IS  
4 ORGANIZED IN THIS STATE PURSUANT TO TITLE 10, THAT IS BASED IN A COUNTY  
5 WITHIN ONE HUNDRED KILOMETERS NORTH OF THE ARIZONA-MEXICO BORDER LINE AND  
6 THAT PROMOTES TRADE AND COMMERCE WITHIN THE ARIZONA-MEXICO BORDER AREA BY:

7           (a) IMPROVING THE EFFICIENCY AND PRODUCTIVITY OF EXISTING  
8 INTERNATIONAL PORTS OF ENTRY AT THE BORDER, INCLUDING THE CONSTRUCTION,  
9 OPERATION AND MAINTENANCE OF THESE FACILITIES OR OTHER SUPPORTING FACILITIES.

10          (b) PROMOTING PROJECTS THAT WILL ENHANCE THE TRANSPORTATION FLOW  
11 THROUGH THE PORT OF ENTRY AND THROUGHOUT THE ARIZONA-MEXICO BORDER AREA.

12          (c) PROMOTING A MEMBERSHIP THAT REFLECTS A BROAD CROSS SECTION OF  
13 LOCAL GOVERNMENT, INDUSTRY, COMMERCE AND THE COMMUNITY IN GENERAL.

14          ~~7-~~ 8. "Costs" includes all costs and expenses incurred in the  
15 issuance of bonds, including legal, accounting, consulting, printing,  
16 advertising and travel costs and expenses, and may also include interest on  
17 bonds issued pursuant to this article for a reasonable time before and during  
18 construction and after completion of construction of any project.

19          ~~8-~~ 9. "Entity" means the United States or any agency or department of  
20 the United States, any state or any agency, department or political  
21 subdivision of this state or any other state of the United States, any Indian  
22 tribe, any foreign country or any state, agency, department or other  
23 political subdivision of any foreign country, including the Republic of  
24 Mexico and any state, agency, department or other political subdivision of  
25 the Republic of Mexico or any public or private corporation, company,  
26 partnership, joint venture, foundation, trust, estate, individual or other  
27 legal business organization.

28          ~~9-~~ 10. "Federal agency" means any agency or department of the United  
29 States, including the United States department of commerce, the United States  
30 department of transportation, the United States department of the treasury  
31 and the United States environmental protection agency.

32          ~~10-~~ 11. "Project" means any property and related facilities, whether  
33 or not now in existence, acquired to facilitate international trade or  
34 commerce between this state and other countries, including property suitable  
35 for any of the following purposes:

36           (a) International ports of entry.

37           (b) International border crossing facilities.

38           (c) Transportation and shipping facilities, including railroad, dock,  
39 airport, highway and roadway facilities, other than a highway or roadway  
40 under the jurisdiction of the department of transportation, and including  
41 public transportation, surface mass transit and intermodal surface AND AIR  
42 transportation facilities.

43           (d) Any facilities located or to be located in the ~~Arizona-Sonora~~  
44 ~~ARIZONA-MEXICO~~ border area for ~~environmental health projects or for the~~  
45 ~~treatment or distribution of water, the collection, treatment or disposition~~

~~of wastewater, sewage or solid waste, the treatment, abatement, storage, disposition or transportation of pollutants or contaminants or the prevention or abatement of air pollution~~ THE TRANSMISSION OR TRANSPORTATION OF ELECTRICITY, LIQUEFIED NATURAL GAS, NATURAL GAS AND OIL AND ITS DERIVATIVES ACROSS THE UNITED STATES-MEXICO BORDER.

~~11.~~ 12. "Property" means land, improvements to land, buildings, improvements to buildings, machinery and equipment of any kind, operating capital and any other real or personal property necessary for a project.

~~12.~~ 13. "Trustee" means any financial institution or trust company actually doing business in this state.

Sec. 3. Section 41-1553.02, Arizona Revised Statutes, is amended to read:

41-1553.02. Governing board; members; appointment; qualifications; terms; officers; meetings; reimbursement

A. The authority's governing board is a board of directors consisting of seven members appointed by the governor pursuant to section 38-211. Members of the board shall be chosen based on their experience in one or more of the fields of public finance, international banking, international commerce and relations, transportation, infrastructure and related facilities construction, environmental issues and land use planning. At least one member shall be from each of Cochise, Santa Cruz, Pima and Yuma counties. IF A BORDER REGIONAL PORT AUTHORITY EXISTS IN ANY ONE OF THE FOUR ELIGIBLE COUNTIES, THE GOVERNOR SHALL APPOINT ONE MEMBER OF THE QUALIFYING BORDER REGIONAL PORT AUTHORITY BOARD TO THE ARIZONA INTERNATIONAL DEVELOPMENT AUTHORITY GOVERNING BOARD. No more than two members shall be selected from the same county. he governor may remove any member of the ARIZONA INTERNATIONAL DEVELOPMENT AUTHORITY board for cause.

B. The speaker of the house of representatives, the president of the senate, the director of the department of commerce, the director of the department of transportation, the director of the department of environmental quality and a representative designated by the ~~inter-tribal~~ INTERTRIBAL council of Arizona are advisory members of the board but are not eligible to vote and are not members of the board for purposes of determining a quorum.

C. Each appointed member of the board shall serve for a term of five years and, except for an initial board member who is appointed for three or fewer years and who may be appointed for one additional term, is ineligible to succeed himself but may subsequently be reappointed to the board. Vacancies occurring other than by expiration of term shall be filled for the remainder of the unexpired term in the same manner as members are appointed.

D. The initial board members shall organize the board. The board shall annually elect from among its members a chairman, a secretary and a treasurer and may also elect such other officers as it deems appropriate.

1 E. The board shall provide for a regular annual meeting of the board  
2 and such other regular meetings as the board may determine. The chairman may  
3 call a special meeting at any time. The board shall provide a method of  
4 giving notice of special meetings.

5 F. Members of the board are not eligible to receive compensation, but  
6 appointed members are eligible for reimbursement of expenses pursuant to  
7 title 38, chapter 4, article 2 from the Arizona international development  
8 authority fund.

9 G. The board is a public body for the purposes of title 38, chapter 3,  
10 article 3.1 and a public agency for the purposes of title 38, chapter 3,  
11 article 8 but is exempt from ~~title 41~~, chapter 23 OF THIS TITLE.

12 H. THE DEPARTMENT OF COMMERCE SHALL PROVIDE GENERAL ADMINISTRATIVE  
13 SUPPORT, EQUIPMENT AND OFFICE AND MEETING SPACE TO THE AUTHORITY. THE  
14 DEPARTMENT MAY HIRE STAFF TO PROVIDE ADMINISTRATIVE AND TECHNICAL ASSISTANCE  
15 ON BEHALF OF THE AUTHORITY. EARNINGS ON THE MONIES IN THE ARIZONA  
16 INTERNATIONAL DEVELOPMENT AUTHORITY FUND MAY BE USED TO PAY FOR STAFF  
17 SERVICES.

18 Sec. 4. Section 41-1553.03, Arizona Revised Statutes, is amended to  
19 read:

20 41-1553.03. Powers and duties of authority

21 A. The authority may:

- 22 1. Adopt and change bylaws and an official seal.
- 23 2. Maintain an office.
- 24 3. Sue and be sued.

25 4. Employ an executive director at the compensation and on the terms  
26 and conditions determined by the board and employ or contract for  
27 administrative and clerical staff, professional and administrative experts  
28 and other staff as necessary to enable the authority to carry out its  
29 purposes.

30 5. Engage in any lawful activities to facilitate the development of  
31 international trade or commerce between this state and other countries,  
32 including any of the following:

33 (a) Solicit and accept grants of monies, materials or property of any  
34 kind from any entity, on such terms and conditions as may be acceptable to  
35 the authority.

36 (b) Make and enter into contracts and agreements, including  
37 intergovernmental agreements pursuant to title 11, chapter 7, article 3, and  
38 execute all instruments, perform all acts and do all things necessary to  
39 carry out the powers granted in this article including entering into  
40 partnership or joint venture agreements with any entity.

41 (c) Advise and consult with the legislature and federal and state  
42 agencies regarding methods, proposals, programs and initiatives relating to  
43 international trade or commerce.

(d) Acquire, sell, lease as lessor or lessee or otherwise dispose of any projects permitted by this article on the terms and conditions that the authority deems advisable and that are not in conflict with this article.

(e) Issue revenue bonds for the purpose of defraying the cost of acquiring or operating any project or to refund, at or before maturity, any outstanding bonds or other indebtedness.

(f) Cooperate with other public and private economic development organizations involved in enhancing international trade or commerce and economic development.

(g) Consult with counties, cities, towns and other agencies and political subdivisions of this state relating to plans and projects authorized by this article.

(h) Establish advisory councils, consisting of members and with powers and duties as determined by the board, to advise and counsel the authority in carrying out its duties.

(i) THE AUTHORITY MAY DESIGNATE A BORDER REGIONAL PORT AUTHORITY WITHIN A SPECIFIC ARIZONA-MEXICO BORDER AREA AS AN ADVISORY COUNCIL, AND IF A BORDER REGIONAL PORT AUTHORITY EXISTS ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE BORDER REGIONAL PORT AUTHORITY SHALL BE DESIGNATED AS AN ADVISORY COUNCIL. THE AUTHORITY MAY DESIGNATE ONLY ONE BORDER REGIONAL PORT AUTHORITY IN A COUNTY AS AN ADVISORY COUNCIL. THE BOARD MAY DELEGATE THE POWERS AND DUTIES PRESCRIBED IN THIS SECTION TO A BORDER REGIONAL PORT AUTHORITY. A BORDER REGIONAL PORT AUTHORITY THAT IS DESIGNATED PURSUANT TO THIS SUBDIVISION MAY TAKE ACTIONS ONLY ON THE APPROVAL OF AND WITH OVERSIGHT BY THE ARIZONA INTERNATIONAL DEVELOPMENT AUTHORITY BOARD.

B. On or before December 1 of each year, the authority shall make a verified statement of the financial condition of the authority as of and for the year ending on the preceding June 30, showing particularly the receipts and disbursements of the authority during the fiscal year and the source of the receipts and the purpose of the disbursements. Within one hundred twenty days after the end of each fiscal year, the authority shall cause an audit to be made of the funds of the authority by a certified public accountant and shall file a copy of the audit with the auditor general. The auditor general may make any further audits and examinations as ~~he~~ THE AUDITOR GENERAL deems necessary and may take appropriate action relating to the audit pursuant to chapter 7, article 10.1 of this title. If the auditor general takes no official action within ninety days after the audit is filed, the audit is deemed sufficient. The board shall pay any fees and costs of the certified public accountant and the auditor general under this section from the Arizona international development authority fund.

C. The authority shall establish an application process and related procedures for use by the authority in evaluating any proposed project. Any proprietary information submitted to the authority by any private entity in connection with any application is not a public record under title 39, chapter 1, article 2, shall be treated as confidential information and shall



not be released without the express consent of the entity submitting the information.

~~D. Before the authority approves any project pursuant to this article, the authority shall advertise the proposed project and consider alternative competing private sector proposals for the proposed project and shall submit the proposed project, if located in an incorporated area, to the governing body of the city or town in which the project may be located for its approval. If located in an unincorporated area, the project shall be submitted to the applicable county board of supervisors for their approval. If the authority receives one or more economical, advantageous and feasible private sector proposals, the authority shall provide that the project is undertaken as a private project.~~

~~E.~~ D. In determining whether to acquire or approve any project, the authority shall limit consideration to projects that will be placed solely within the ~~Arizona-Sonora~~ ARIZONA-MEXICO border area.

~~F.~~ E. Before proceeding with any project, the board shall adopt a resolution approving the project, setting forth the scope of the project and stating, among other things, that the authority has determined that the project will be in the best interests of this state ~~and will not result in the establishment or provision of facilities or services that are otherwise reasonably available.~~

~~G.~~ F. No project shall be approved unless the authority has determined that the project complies with zoning and other applicable development standards of the county, city or town with zoning jurisdiction over the property on which it is to be located.

Sec. 5. Section 41-1553.04, Arizona Revised Statutes, is amended to read:

41-1553.04. Fees and charges: Arizona international development authority fund

A. The authority may fix, alter, charge and collect tolls, fees and rents and may impose any other charges for the use of any authority facility or for services rendered by the authority on such terms and conditions as may be prescribed from time to time by the authority. All tolls, fees, rents and other charges imposed by the authority and all revenues, receipts and other monies received by the authority except as expressly otherwise provided in this article or in any resolution adopted by the board in connection with the sale of any issue of bonds shall be deposited in the Arizona international development authority fund **AND MAY BE USED BY THE AUTHORITY FOR ANY LAWFUL PURPOSES OF THE AUTHORITY.**

**B. THE ARIZONA INTERNATIONAL DEVELOPMENT AUTHORITY FUND MAY ALSO CONSIST OF MONIES APPROPRIATED BY THE LEGISLATURE.**

**C. THE BOARD MAY ESTABLISH ACCOUNTS AND SUBACCOUNTS AS NECESSARY TO PROPERLY ACCOUNT FOR AND USE MONIES RECEIVED BY THE AUTHORITY.**

1           Sec. 6. Section 41-1553.05, Arizona Revised Statutes, is amended to  
2 read:

3           41-1553.05. Costs of bond payment; use of fund; taxation

4           A. This state is not responsible for any costs incurred ~~by the~~  
5 ~~authority, including compensation for board members or employees, other~~  
6 ~~operational or administrative costs, any costs of acquiring, operating or~~  
7 ~~maintaining any project or the costs incurred in the issuance or~~ FOR THE  
8 payment of bonds THAT ARE ISSUED BY THE AUTHORITY.

9           ~~B. All costs of the authority shall be paid from bond proceeds or from~~  
10 ~~revenues, receipts or other monies of the authority.~~

11           B. MONIES IN THE ARIZONA INTERNATIONAL DEVELOPMENT AUTHORITY FUND ARE  
12 CONTINUOUSLY APPROPRIATED AND MAY BE USED FOR:

13           1. PAYING THE COSTS TO OPERATE THE AUTHORITY, TO ADMINISTER THE FUND  
14 AND TO CARRY OUT THE REQUIREMENTS OF THIS ARTICLE.

15           2. PAYING THE COMPENSATION AND EMPLOYMENT RELATED EXPENSES ASSOCIATED  
16 WITH THE EMPLOYMENT OF ADMINISTRATIVE STAFF AND PROFESSIONAL EXPERTS.

17           3. REIMBURSEMENT TO THE DEPARTMENT OF COMMERCE FOR ANY EXPENSES  
18 INCURRED BY THE DEPARTMENT PURSUANT TO SECTION 41-1553.02, SUBSECTION H.

19           C. The authority, its income and property, all bonds issued by it and  
20 the interest on the bonds are exempt from all taxation by this state or any  
21 political subdivision of this state.